

EXHIBIT 56

AMERICAN ARBITRATION ASSOCIATION

NEW YORK, NEW YORK - COMMERCIAL RULES

No. 13 148 Y 01799 10

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RICHARD BORN, RICHARD BORN TRUST,

and BORN REALTY, L.P.,

Claimants,

vs.

J. EZRA MERKIN,

Respondent.

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Pryor Cashman LLP

Seven Times Square

New York, New York 10003-6569

July 15, 2011

10:07 a.m.

B E F O R E:

NORMAN H. ROSEN, ESQ. - The Chairman

THOMAS J. FLEMING, ESQ. - Panel Member

DONALD S. ZAKARIN, ESQ. - Panel Member

Amy Klein Campion - Hearing Reporter

1 E.J. Merkin - Direct - Mr. Bamberger (Cont'd)

2 is on, sir.

3 A. Okay.

4 THE CHAIRMAN: Let's go on.

5 Q. We'll look at that.

6 Now this article asks a question
7 which you must have asked yourself,
8 correct, by this time, which was if Madoff
9 is so successful as a money manager for so
10 long, why isn't he pocketing himself the
11 hundreds of millions of dollars in
12 management fees and incentive fees that
13 folks like yourself and Fairfield Sentry
14 and all of the feeder funds are
15 collecting, right?

16 A. No. I knew what Mr. Madoff's
17 compensation was, what his commission
18 schedule was. I could, if I bothered,
19 thought about trying to translate that
20 number into some other number into a
21 dollar number across the broad book of his
22 business.

23 But he was making fortunes and
24 fortunes and fortunes in commissions and
25 had the wholesale business that was making

1 E.J. Merkin - Direct - Mr. Bamberger (Cont'd)

2 (Discussion off the record.)

3 MR. LEVANDER: It's three
4 minutes to 5:00. I want to suggest
5 that we stop for the day.

6 THE CHAIRMAN: Maybe that's a
7 good idea.

8 Can we stop at this point?

9 I agree.

10 Especially since Mr. Merkin
11 seems to be running down a bit.

12 MR. LEVANDER: He has a fever.

13 THE WITNESS: I have a fever, so
14 I don't mind taking advantage of your
15 offer and maybe stopping five minutes
16 earlier.

17 THE CHAIRMAN: Can we pick up
18 Monday morning?

19 MR. LEVANDER: This doesn't have
20 to be on the record.

21 (Discussion off the record.)

22 [TIME NOTED: 4:54 p.m.]

23

24

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Pryor Cashman LLP

Seven Times Square

New York, New York 10003-6569

July 18, 2011

10:01 a.m.

B E F O R E:

NORMAN H. ROSEN, ESQ. - The Chairman

THOMAS J. FLEMING, ESQ. - Panel Member

DONALD S. ZAKARIN, ESQ. - Panel Member

Amy Klein Campion - Hearing Reporter

1 J.E. Merkin - Cross - Mr. Levander

2 A. The Greenblatt family had sold
3 the family business, and Joel decided, if
4 not absolutely exclusively, overwhelmingly
5 to simply invest family money that had
6 become available through the proceeds of
7 the sale of the business.

8 Q. Do you continue to have a
9 relationship with Joel today?

10 A. Yes. We are very good friends.

11 Q. So in the late 1980s, after you
12 left Gotham, what did you go do?

13 A. Basically I formed a pooled
14 vehicle called Ariel Capital, which
15 continued much of the investment program
16 of Gotham and then to some extent even
17 Halcyon.

18 Q. Did Ariel eventually split into
19 two different named entities?

20 A. Yes. Ariel had a domestic
21 limited partnership then called Ariel
22 Capital Partnership LP, and an offshore
23 fund called Ariel Fund Limited.

24 One was a Delaware limited
25 partnership and one was a Cayman

1 J.E. Merkin - Cross - Mr. Levander
2 corporation.

3 Q. Did the domestic company get
4 renamed at some point?

5 A. Yes. We renamed Ariel Capital
6 Gabriel Capital, primarily as a result of
7 a money management firm in Chicago that
8 was then named and probably still is named
9 Ariel-something.

10 Q. Got it.

11 And I think you just said a
12 moment ago that the Ariel/Gabriel
13 continued to focus on bankruptcies,
14 distressed debts and other kinds of
15 investments?

16 A. And merger arbitrage, with
17 speculating in the underwriting of
18 announced acquisitions and thereby
19 creating a rate of return.

20 Q. At what time did you begin to
21 manage other funds?

22 A. Beyond those strategies?

23 Q. Yes.

24 A. In the early nineties, probably
25 around '92, Ascot was formed. And then

1 J.E. Merkin - Cross - Mr. Levander

2 "Question: Same thing?

3 "Answer: Same thing.

4 "Question: Uh-hum.

5 "Answer: It's Madoff account.

6 You use different terminology, but it
7 amounts to the same thing."

8 THE CHAIRMAN: Who is this?

9 MR. LEVANDER: Leon Meyer.

10 MR. BAMBERGER: Meyers.

11 MR. LEVANDER: Mr. Meyers.

12 Thank you.

13 THE CHAIRMAN: Tomorrow morning,
14 10 o'clock.

15 MR. LEVANDER: Thank you.

16 (Time noted: 5:32 p.m.)